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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

7  
8 RANDY RONALDO REYES, No. C 05-04078 SI

9 Petitioner,

**ORDER GRANTING CERTIFICATE OF  
APPEALABILITY**

10 v.

11 W.A. DUNCAN, Warden,

12 Respondent.

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14 Randy Ronaldo Reyes, a prisoner of the State of California at Salinas Valley State Prison in  
15 Soledad, California, brought a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order  
16 filed August 31, 2006, this Court denied the petition. Petitioner has now filed a notice of appeal, which  
17 this Court deems to constitute a request for a certificate of appealability. *See United States v. Asrar*, 116  
18 F.3d 1268, 1270 (9th Cir. 1997).

19 A judge shall grant a certificate of appealability “only if the applicant has made a substantial  
20 showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Section 2253(c)(2) codified  
21 the standard announced by the United States Supreme Court in *Barefoot v. Estelle*, 463 U.S. 880, 892-93  
22 (1983), to the effect that “a substantial showing of the denial of [a] federal right” means that a petitioner  
23 “must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the  
24 issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed  
25 further.” *Id.* at 893 n.4 (internal quotations omitted). The certificate must indicate which issues satisfy  
26 this standard, *see* 28 U.S.C. § 2253(c)(3), and the court of appeals is limited to considering only those  
27 claims. *See Hiivala v. Wood*, 195 F.3d 1098, 1103 (9th Cir. 1999).

28 Petitioner has “made a substantial showing of the denial of a constitutional right,” 28 U.S.C. §

1 2253(c)(2), and has demonstrated that reasonable jurists would find debatable, the district court's  
2 assessment with respect to petitioner's second claim. Accordingly, the Court GRANTS a certificate of  
3 appealability with respect to the following issue: whether co-defendant Ruiz's confession was  
4 improperly excluded from petitioner's trial.

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6 **IT IS SO ORDERED.**

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8 Dated: September 25, 2006

*Susan Illston*  
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10 SUSAN ILLSTON  
11 United States District Judge